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HEADQUARTERS EIGHTH ARMY
United States Army
Office of the Staff Judge Advocate

Yokohama, Japan.
29 November 1948

UNITED STATES OF AMERICA VS MASAUKI KIRYU
UNITED STATES OF AMERICA VS TAKEO SHURAKI
UNITED STATES OF AMERICA VS MINORU KOBAYASHI

Review of the Staff Judge Advocate

1. The attached record of trial of Masauki Kiryu, Takeo Shuraki, and Minoru Kobayashi at Yokohama, Japan, from 17 February 1947 to 18 March 1947 by a Military Commission appointed by paragraph 1, Special Orders Number 29, Headquarters Eighth Army, United States Army, dated 4 February 1947, as amended by paragraph 32, Special Orders No. 36, Headquarters Eighth Army, United States Army, dated 12 February 1947, having been referred to the Staff Judge Advocate, this review thereof is submitted to the Commanding General.

Personal Data Concerning Accused

NAME: Masauki Kiryu, also known as Shinshi Kiriu.
AGE: 31 years.
RESIDENCE: Yamasi Machi, Hyogo Ken, Japan.
MARITAL STATUS: Married
RELATIVES: Wife, 1 son, & sister.
EDUCATION: High School, English Mission School, Singapore.
VOCATION: Clerk
MILITARY CAREER: None.

DATE OF CONFINEMENT: 28 January 1946
DATE OF ARRAIGNMENT: 17 February 1947
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 17 February 1947 - 18 March 1947
DATE OF SENTENCE: 18 March 1947
SENTENCE: CHL for two years.
CLEMENCY RECOMMENDED BY COMMISSION: No.

NAME: Takeo Shuraki, also known as Takeo Shiraki.
AGE: 24 years.
RESIDENCE: Gifu Shi, Nagara Tenjin.
MARITAL STATUS: Single
RELATIVES: Father.
EDUCATION: Graduate of Commercial School.
VOCATION: Treasurer.
MILITARY CAREER: Inducted 12 March 1944 and served until the termination of hostilities.

DATE OF CONFINEMENT: 25 January 1946
DATE OF ARRAIGNMENT: 17 February 1947
PLACE OF TRIAL: Yokohama, Japan.
PERIOD OF TRIAL: 17 February 1947 - 18 March 1947.
DATE OF SENTENCE: 18 March 1947
SENTENCE: CHL for twenty-five years.
CLEMENCY RECOMMENDED BY COMMISSION: No.

NAME: Minoru Kobayashi
AGE: 35 Years.
RESIDENCE: Aichi Prefecture, Hekkai, Fujimatsu, Oaza, Tsukiji, 48 Banchi
MARITAL STATUS: Married.
RELATIVES: Wife, 3 Children, & Mother.
EDUCATION: Graduate of primary school.
VOCATION: Factory worker.
MILITARY CAREER: Entered Japanese Army 1 December 1934 and served until the termination of hostilities.

DATE OF CONFINEMENT: 27 March 1946
DATE OF ARRAIGNMENT: 17 February 1947
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 17 February 1947 - 18 March 1947.
DATE OF SENTENCE: 18 March 1947
SENTENCE: CHL for fifteen years.
CLEMENCY RECOMMENDED BY COMMISSION: No.

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2. Synopsis of Charges, Pleas, Findings, and Legal Sufficiency:

Charge and Specifications:	Pleas:	Findings:	Legally Sustained:
KIRYU			
Charge: That between 1 April 1945 and 31 August 1945, at Yokkaichi Prisoner of War Camp, also known as Nagoya #5 Camp, Osaka Area, Honshu, Japan, Masauki Kiryu, then a civilian interpreter in the Armed Forces of Japan, a nation then at war with the United States of America and its Allies, did violate the Laws and Customs of War.	N G	G-	Yes
Specification 1: That between 1 April 1945 and 31 August 1945 the accused, Masauki Kiryu, did, with others, willfully and unlawfully mistreat and abuse and torture Master Sergeant John Kristapoviz, Jr., Sergeant Edward R. Raskiewicz, and Private First Class Edward V. Sheehan, American Prisoners of War, by repeatedly striking them with sticks, clubs, fists, leather belts, shoes, ropes, buckles, and bamboo poles and by then rubbing salt in their wounds; by depriving them of their food rations; by forcing them to stand at attention holding weighted buckets of water in front of them at arm's length for long periods of time; by suspending them by their wrists and thumbs from ladders for long periods of time; by forcing them to kneel on rocks; by forcing them to kneel on bamboo rods with heavy rocks on their knees, and by forcing them to squat for long periods of time with a pole in the crook of their knees.	N G	N G	---
Specification 2: That in or about April 1945, the accused, Masauki Kiryu, did willfully and unlawfully mistreat and abuse Corporal Richard William Bond and Private Waldo Rapp, American Prisoners of War, by beating them with a shoe.	N G	N G	---
Specification 3: That between 1 April 1945 and 31 August 1945 the accused, Masauki Kiryu, did willfully and unlawfully mistreat and abuse numerous Allied Prisoners of War by beating them. (As amended R 564)	N G	G, except to add after the words "beating," the words, "or slapping"; of the additional words, Guilty.	Yes
SHURAKI			
Charge: That the following member of the Imperial Japanese Army, with his then known title: Takeo Shuraki, Corporal, at the times and places set forth in the specifications hereto attached, and during a time of war between the United States of America, its Allies and Dependencies, and Japan, did violate the Laws and Customs of War.	N G	G	Yes

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Specification 1: That between 1 June 1945 and 8 August 1945, at or near Nagoya Sub-camp 5, Nagoya Area, formerly known as Yokkaichi Prisoner of War Camp, Osaka Area, Honshu, Japan, the accused, Takeo Shuraki, with others, did willfully and unlawfully mistreat and abuse Corporal Samuel Lynch, an American Prisoner of War, by beating him with fists and sticks.	N G	G	Yes
Specification 2: That on or about 18 June 1945, at or near Nagoya Sub-Camp 5, Nagoya Area, formerly known as Yokkaichi Prisoner of War Camp, Osaka Area, Honshu, Japan, the accused, Takeo Shuraki, did willfully and unlawfully mistreat and abuse Staff Sergeant Roy Louis Diaz, Sergeant John Fitzjohn, Corporal Nick Gallegos and numerous other American Prisoners of War, by beating them with shoes, a wooden sabre and belts.	N G	G, except for the words, "and belts," and by adding the word "and" after the word "shoes," of the excepted words, Not Guilty; Of the added word, Guilty.	Yes
Specification 3: That in the months of June, July, and August 1945, at or near Nagoya Sub-Camp 5, Nagoya Area, formerly known as Yokkaichi Prisoner of War Camp, Osaka Area, Honshu, Japan, the accused, Takeo Shuraki, with others, did willfully and unlawfully mistreat and torture Private First Class Edward V. Sheehan, Sergeant John Kristapovis, Jr, and Private Edward Raskiewicz, American Prisoners of War, by repeatedly striking them with ropes, poles, clubs, shoes and belts; by suspending them by their wrists from ladders; by rubbing salt in their wounds; by forcing them to hold heavy pails in their outstretched arms for long periods of time; and by causing them to kneel on sharp rocks.	N G	G, except for the words "poles, clubs, shoes," substituting therefore the words "wooden rifles, sword in scabbard," and except for the words "by rubbing salt in their wounds,"; of the excepted words, Not Guilty; of the substituted words, Guilty.	Yes
Specification 4: That between 1 June 1945 and 8 August 1945 at or near Nagoya Sub-Camp 5, Nagoya Area, formerly known as Yokkaichi Prisoner of War Camp, Osaka Area, Honshu, Japan, the accused, Takeo Shuraki, did willfully and unlawfully mistreat numerous American Prisoners of War, by beating and striking them with fists, clubs, ropes, shoes, belts and buckles, and otherwise abusing them.	N G	G, except for the words "numerous American prisoners of war, by beating and striking them with fists, clubs, ropes, shoes, belts and buckles and otherwise abusing them"; substituting therefore the words, "Technical Sergeant Benjamin F. Kimmerle by beating him with a belt"; of the excepted words, Not Guilty; of the substituted words, Guilty.	Yes

KOBAYASHI

Charge: That between 6 April 1945 and 8 August 1945, at Yokkaichi Prisoner of War Camp, Osaka Area, later known as Nagoya Sub-Camp 5, Nagoya Area, Honshu, Japan, Minoru Kobayashi, then Corporal in the Armed Forces of Japan, a nation then at war with the United States of America and its Allies, did violate the Laws and Customs of War.	N G	G	Yes

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Specification 1: That between 6 April 1945 and 8 August 1945, the accused, Minoru Kobayashi, with others, did, willfully and unlawfully, mistreat and abuse Corporal Samuel Lynch, an American Prisoner of War, by beating him with fists, sticks, and belt and by kicking him.	N G	G, except for the words "fists, sticks, and by kicking him," and adding the word "a" before the word "belt"; of the excepted words, Not Guilty; of the added word, Guilty.	Yes
Specification 2: That between 1 June 1945 and 8 August 1945, the accused, Minoru Kobayashi, with others, did, willfully and unlawfully mistreat and torture Private First Class Edward V. Sheehan, Sergeant John Kristapovis, Jr., and Edward Raskiewicz, American Prisoners of War, by repeatedly beating them with ropes, poles, clubs, shoes and belts, by suspending them by their wrists from ladders, by rubbing salt in their wounds, and by forcing them to hold heavy pails in their outstretched arms for long periods of time.	N G	G, except for the words, "poles, clubs, shoes"; substituting therefore the words "wooden rifles, sword in scabbard" and except for the words "by rubbing salt in their wounds"; of the excepted words, Not Guilty; of the substituted words, Guilty.	Yes

3. Summary of the Evidence:

a. For the Prosecution:

As to Specificationsl and 2 (Kiryu): Not Guilty.

As to Specification 3 (Kiryu): Loice Avin Trotter states: "The name of the Japanese interpreter at this camp was a Jap by the name of Keelo (phonetic). I have seen Keelo personally beat prisoners." (R 24; Ex 23)

Harold W. Densmore, a former prisoner of war at Yokkaichi Prisoner of War camp, testified that he saw Kiryu slap quite a few prisoners at lineup and work details. They were not beatings, but slappings (R 127).

Patrick H. Phillips says in his affidavit, "The factory interpreter, named Kelu, was tall, slim, and spoke a broken English. He would deliberately mis-interpret orders so that Americans would be beaten up for failure to respond correctly to these orders. Kelu also actively engaged in a number of these beatings of prisoners." (R 137; Ex 46; Ex 47)

Jack Raymond Miller states, "A civilian by the name of Kelo, also an interpreter for the camp, acted in the capacity of Adjutant at the camp and was responsible for most of the beatings and torture." (R 138; Ex 48).

Kenneth Francis Newton says in his affidavit that ". . . . Kilu, was constantly mistreating American prisoners of war. On many occasions, I have see him strike Americans with a fist or a club for no reason." (R 138; Ex 50).

The affidavit of William Robert Linderfelt states, "There was a civilian interpreter named Kilo who was particularly brutal. One form of punishment he used was hanging prisoners by their wrists with their feet off the ground and then beating them." (R 139; Ex-55). The same affiant also stated that, "The interpreter Kilo in order to determine whether the prisoners had taken any food and eaten, forcibly made prisoners vomit." (R 139; Ex 54).

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Watson Joseph LeBlanc says, "I personally could testify against a Jap interpreter whose name is Shinshi Kiriu and whose address is Yamase-machi, Hyogo-kin, Kobe, Japan. I personally saw him beat some boys up and he is greatly responsible for taking patients outdoors and making them run around in circles in the cold North Wind." (R 142; Ex 59)

Richard William Bond states in his affidavit, "Kilu made a habit of beating American prisoners on the slightest provocation and continually mistreated many of them he came in contact with." (R 143; Ex 61)

The affidavit of Abraham Korman states as follows: "I left Bilibid Prison 2 July 1944 and was transferred to Japan sixty-two days later on 2 September 1944 and was taken to the Nagoya Area Camp Number 5, Yokkaichi Mei Prefecture. Here I worked in the copper refinery or mill. The men were beaten from time to time. The name of the interpreter was Kiru and he was responsible for many of the beatings." (R 145; Ex 63)

The affidavit of Joe Harrison Alsobrook states, "At Nagoya Area Camp Number 5 Yokkaichi it was an interpreter by the name of Kilu who was the cause of numerous men getting whipped for practically no reason, mostly for stealing food and firewood. There was only one man whom I actually saw him beat. I do not remember the man's name he beat. This took place approximately in March 1944. He was beaten by Kilu for stealing food. A guard caught him stealing this food and Kilu and the guard beat him for one and a half hour. I do not remember anything about the guard who helped Kilu beat this prisoner. They beat him with their hands, knocked him down, and used their feet to kick him when he was down. This man was not given medical attention after this beating." (R 147; Ex 67)

Eugene F. Kowalski states, "At this camp, Key Lou, a civilian interpreter, had ordered a shake down during which he observed some rice on my person which I had obtained by trading a white shirt with a Japanese civilian in the factory where the prisoners worked. As punishment for this possession of rice I was ordered to extend my right hand which he struck with a stick breaking my two knuckles and fracturing my wrist. Then he told me to put out my left hand. I refused and he swung the stick sidewise hitting my right hand again while it was back in its normal position and fractured it a second time. I received no treatment until the time I reached the Letterman General Hospital in the United States where my hand was rebroken and set." (R 147; Ex 68).

As to Specification 1 (Kobayashi): Harold W. Densmore testified that he saw the accused, Kobayashi, strike Lynch with a belt about four or five times around the face and shoulders with the buckle end of the belt. (R 118, 119).

E. J. Batson states that: "I saw Sergeant Samuel Lynch beaten by Sergeant Kobiashi and Cpl Surachi (phonetic), two of the Japanese soldiers at Yokkaichi. Lynch had brought some food into camp which he had obtained at work and was discovered by one of the Japanese guards. The guard reported discovering the food to Sergeant Kobayashi who forced Lynch to bend over and touch his ankles and then proceeded to beat Lynch with a heavy leather belt about two inches wide - - - - -Sergeant Kobayashi beat Lynch until he fell to the ground unconscious and then beat him several times while he was on the ground. Sergeant Kobayashi was the camp Sergeant Major." (R 131; Ex 31)

Samuel Lynch, the alleged victim named in this specification, swore in his affidavit that he was given a severe beating when he attempted to smuggle a portion of canvas into camp. The accused, Kobayashi, is not named specifically in this affidavit as having administered this beating to Lynch. He refers to a Japanese corporal whom he knew as quartermaster but states that his real name was Corporal Kobayashi. (R 134; Ex 38)

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Major Donald G. Thompson states the following in his affidavit, "Some time in the month of July 1945, Samuel Lynch had brought into camp a type of starch as food. He was discovered by a civilian guard nicknamed 'The Skull.' The Japanese acting sergeant major, Corporal Kobiachi was called. He beat Lynch about five minutes with a short, hard wood, walking stick and also with his fist. When Kobayashi had finished beating Lynch he returned to his office but commanded Lynch to remain at attention." (R 149; Ex 69)

The testimony of Major Donald Thompson given in the case of United States of America vs Marizo Shinjo, Case Docket No. 100, was introduced into the record (R 153) and this testimony reiterated the part that Kobayashi played in the beating of Samuel Lynch. (R 156)

As to Specification 2 (Kobayashi): William Dunham Kilgore states the following in his affidavit "I - - -on 27 June 1945 witnessed the mistreatment of three American prisoners. They were first sergeant Kriztopoviz, Private Sheehan, and an enlisted man by the name of Rascovich (phonetic). These three men stole some rice and sake from a Japanese guard house within the camp and were discovered by the Japanese. They were taken to the camp compound and severely beaten by the Japanese guards including Sergeant Major Kobiachi (phonetic) who seemed to be the ring leader of the group. The guards beat them with their fists, clubs, and rifle butts off and on all night long, and the three men were regularly submitted to the same treatment each morning and night for a period of about one month - - - - - On one occasion during this period they hanged the three men by their thumbs with their toes barely touching the ground. This treatment lasted for at least one half hour - - - - - -In my opinion the Japanese Sergeant Major Kobayashi was directly responsible for this punishment." (R 14; Ex 6) (See also Ex 7, 9, 10, 11, 13, & 19).

John Kristapoviz Jr, one of the victims enumerated in this specification states: "A heavy air raid took place on 26 June 1945 in Yokkaichi, Japan while I was held a prisoner there. During this raid, I decided to go to the Japanese stick guards' barracks and try and steal some food (A stick guard was a Jap civilian who patrolled our living and working areas armed with a stick). On my way, I met Pfc Edward Raskiewicz and he joined me. During the raid, he and I searched the stick guardhouse, and while we found no food we did find a bottle containing about a quart of saki. Raskiewicz and I drank the saki, We then joined the other prisoners on the beach and returned to the barracks with them after the raid.

"About an hour later, the stick guards discovered the theft, and all of us were lined up while Japanese soldiers smelled our breath to determine who was responsible. I was soon caught and taken to the Japanese guard house by the acting sergeant major whose name was Kobishishi (phonetic), who was a corporal in the Japanese Army but acting sergeant major of our camp. When I arrived at the guard house there were ten or twelve Japanese, about half civilian employees, and the rest soldiers, waiting. They met me and immediately started beating me with their fists, kicking me; and they gave me a very thoroughgoing over. During this beating, Kobishishi took his sword which was still in the scabbard and struck me over the head and shoulders at least ten or twelve times with it. I don't know how long the beating went on, but it must have been all of a half hour.

"I had been in my cell about five minutes when they brought Raskiewicz in and placed him in an adjoining cell. About five minutes later, they returned and took him out into the guardhouse area where he was beaten in the same manner as I have just described.

"After they were through beating him, I went to sleep, and it must have been two hours later when I was awakened by a Jap guard. As I left the guardhouse to go into the yard, I noticed Raskiewicz lying on the ground in a semi-conscious condition and saw that he had been thoroughly beaten again.

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"As soon as I reached the ground, I was struck a blow in the back of the head which knocked me out. I came to after the Jap had thrown a bucket of water in my face. As I started to rise, I was again hit with the same club which I later found was a wooden rifle used by Japanese soldiers in bayonet practice. The man with this wooden rifle beat me about the head and shoulders continually, while others used sticks and fists and other types of clubs. I was lying on the ground most of the time. Acting sergeant- major Kobishishi would back off about thirty feet, and with a good running start, jump way up in the air and land on me with his hob-nailed shoes. He did this ten or twelve times during this beating.

"About forty-five minutes later I was taken back into the cell. On the 27th of June, they left us entirely alone. Early in the morning of the 28th of June 1945, Raskiewicz and I were taken outside and made to stand at attention holding a full bucket of water in front of us at arm's length. This bucket was made of wood and would hold about twelve quarts of water. Each time the bucket moved we were beaten in the face with a piece of rubber belting by one of the Jap guards. They later started dropping bricks, pieces of metal and other heavy objects into the buckets to make them heavier. After there wasn't room for any more debris in the bucket, the Japs took a piece of rope and tied one end of the rope round a rock weighing fifteen to twenty pounds. The other end of the rope was tied around our necks. The rock was then dropped over the back of our shoulders and as we were forced to lean forward to hold this bucket full of bricks and metal, doing this the rope choked us so that it was very difficult to breathe.

"This torture lasted from eight in the morning until about twelve. At twelve o'clock, they told us to put the buckets down, and they removed the rope from our necks. They then made Raskiewicz assume the position which a person assumes in preparation for push up exercises, that is, he was parallel to the ground holding his weight on his extended arms and his toes. They took me to a ladder which was propped up against the barracks. The Jap guard moved up to about the fifth rung of the ladder and instructed me to climb on the under side of the ladder about five rungs up. He then lashed my wrists to the ladder just high enough so that my toes would not touch the ground.

"After about a half hour, Raskiewicz was ordered to get up, and he was tied to a ladder in the same manner. I was strung up to this ladder about an hour and a half, and Raskiewicz about an hour.

"After they cut us down from the ladder, they took us out in front of the guardhouse and made us both kneel on a piece of bamboo about a half inch in diameter. We had to kneel on this bamboo in such a fashion that the lower part of the kneecap was resting on this piece of bamboo. After a few minutes, the Japanese guard came along with two heavy rocks, and we were forced to hold these on our knees, so that the weight would press the bamboo rod into the lower part of our kneecaps. A few minutes later, a long piece of bamboo was slipped behind our legs and pushed up as far as possible towards the back of our knees. This piece of bamboo was long enough to go through both of my legs, leaving a space of about three feet and go through Raskiewicz's legs. Japanese guards then took turns standing and jumping on this piece of bamboo which forced the lower part of our kneecaps even further into the bamboo which had been placed on the ground. This torture continued for approximately an hour. Raskiewicz then passed out, and the guards carried both of us back to our cells.

"We were in such poor physical condition that we were unable to do much for several days, and on the fourth of July, a trial was held. The assistant commander for the Nagoya Area, a Lieutenant Colonel, was in charge of this trial and sentenced both of us to thirty days' hard labor.

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"One afternoon about 1:00 o'clock, an air raid alert was sounded, but no planes came over. During this alert, the Japanese came to our cells and took Raskiewicz, another prisoner by the name of Private Sheehan, and me out to the area in front of the guardhouse and made us strip to the waist. They then took a thick piece of Japanese rope, wet it, and tied knots in one end. They took turns beating us across the head and shoulders. After about fifteen minutes, Raskiewicz and I were taken back into the cell, but Sheehan was kept outside for at least another hour.

"From that date until we were released, we were forced to do various types of hard labor around the camp, and while we were often beaten and refused food, no other serious torture of the type I have just described was inflicted.

"While the camp commander would be partially responsible for the beatings and torture I have endured, I do not feel that the methods used were his. I hold the acting sergeant major, whose name was Kobishishi (phonetic), responsible as he was present at all beatings and gave orders."(R 130; Ex 27); (See Ex 36, 37, 56, 57, 58, & 66).

Harold W. Densmore testified that he was a former prisoner of war at Yokkaichi Camp Number 5 from 4 September 1944 to 4 September 1945 (R 27). He identified and pointed out Kobayashi as being in this camp. He further testified that the commanding officer very frequently left the camp and Kobayashi as sergeant major would be in charge (R 29). The witness saw Kristapoviz and Raskiewicz kneeling on the floor of the guard house. Sheehan was also there. He saw Kobayashi, Shuraki, and Kiryu"standing around with them pushing down on their shoulders. Then they took them up from that position, raised them from the kneeling position and were slapping them around." (R 33) Kristapoviz and Raskiewicz were made to hold buckets of water on their heads and run around the camp. Kobayashi was present and took part in this (R 36). At least twice a day, from thirty to thirty-five days, Kristapoviz and Raskiewicz and Sheehan were punished in some way (R 27). The witness saw Sheehan beaten by Kobayashi (R 37). The witness actually saw Kobayashi participate about fifteen times in the punishment of Kristapoviz, Raskiewicz, and Sheehan (R 40). Witness further testified that he saw Kobayashi beat Sheehan with a belt (R 120). He also saw Kobayashi beat Kristapoviz with a rope and a belt on several occasions (R 120). The witness also testified that Kobayashi made Kristapoviz and Raskiewicz run around the camp with full pails of water on their heads (R 122).

A telegram from Commanding General, Fourth Army to CINCFE (For Commanding General, Eighth Army) (Chief War Crimes Division) which is an extract of an affidavit from Cecil A. Crouch states that accused Kobayashi took a very active part in the beating and torture of Kristapoviz, Raskiewicz, and Sheehan (R 569; Ex 73).

As to Specification 1 (Shuraki): Charles H. Campbell states in his affidavit that he witnessed three prisoners that were forced to kneel on the ground with sticks under their knees to cut off the circulation. They remained in this position for at leastone hour during which time the guards beat them with sticks, slippers, or anything else they had in their hands. The Japanese sergeant major during this time would jab them with his sword which was still in its scabbard in the kidneys. Samuel Lynch was one of these three prisoners (R 132; Ex 32).

E. J. Batson stated in his affidavit that he witnessed the beating of Samuel Lynch who was caught bringing food into the camp. This beating was administered by Corporal Kobayashi and Corporal Shuraki: "Corporal Shuraki beat Lynch with a hard wooden stick about the size of a walking cane and also struck him with his fists - - - - Lynch was carried into the barracks after this beating and he had large welts and cuts on his back where the belt had bruised and cut him." (R 131; Ex 31; See also Specification 1 (Kobayashi), Ex 40).

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The affidavit of Donald G. Thompson recites as follows: "Some time in the month of July 1945 Samuel Lynch, an American Prisoner of War, was beaten into unconsciousness by Corporal Shuraki and other Japanese civilian guards - - - - -whereupon Shuraki picked up a piece of two-by-four and started beating Lynch. Lynch was knocked down several times by these blows and when knocked down Shuraki would proceed to kick Lynch in the groin, ribs, and shins, until he got back on his feet again. This beating lasted from five to ten minutes - - - - - Lynch was finally knocked unconscious to the ground, his face was bleeding, his eyes blackened, and his clothes torn off his body. There were large welts on his head and shoulders, cuts about his face and body. There was no medical attention given Lynch. I witnessed this incident." (R 144; Ex 69) The extract of the testimony given by Major Donald G. Thompson in the case of the United States vs Marizo Shinjo, Case Docket Number 100, further bears out the statements made by the above-named affiant.

Harold Densmore testified that he witnessed the beating of Samuel Lynch as administered by the accused, Shuraki. The witness further testified that he saw Lynch beaten with a leather belt by Kobayashi and Shuraki and at the time Lynch had very little clothes on (R 42). "Lynch after that beating was beaten so bad that I don't believe his own mother would have recognized him after it." (R 43) On re-cross examination, the witness testified that Shuraki was the leader in the various beatings given to Lynch (R 108).

As to Specification 2 (Shuraki): Donald G. Thompson states the following in his affidavit: "On or about 18 June 1945, I was walking from the hospital building to the prisoner of war barracks with the Japanese NCO of the day, Corporal Takeo Shuraki. He discovered two window bars had been cut or sawed. Shuraki immediately went into the prisoner of war barracks to the room, bay, or section where the window bars had been cut through. He called the POWs in the bay to attention (about 20 prisoners) and questioned each one of them in Japanese (no interpreter present) as to who had cut the window bars. He then proceeded to strike all of the men on the head with a bayonet or practice saber as he continued to question them. After about 20 minutes of this beating, three POWs confessed to having cut the bars. These three men were Sergeant R.L. Diaz, Sergeant John Fitzjohn, and Corporal Nick Gallagos. They were lined up in the 'gangway' of the barracks and severely beaten; first by Corporal Shuraki and followed by several civilian guards. The Japanese civilians as well as Corporal Shuraki used sticks, wooden shoes, fists, bayonets, and practice sabers to administer the beatings. I witnessed these beatings." (R 144; Ex 69, 34, 52).

Roy Louis Diaz, one of the alleged victims in this specification, states as follows in his affidavit: "On or about 18 June 1945, we had an air raid at the Yokkaichi Camp at which time American planes were dropping bombs and incendaries on some oil tanks and naval base about five miles across the channel. At such time we were locked in the barracks and unable to seek shelter in the event bombs were to hit close by. There were twenty of us in a bay in the barracks and two of the men, Corporal Nick Galleogas and Sergeant John Fitzjohn decided that they wanted to be able to get out to shelter in the event of another air raid, so they sawed three wooden bars off the window in the bay so that they could get out that way. The next morning the Japanese discovered that these bars had been sawed out, so they asked who did it. Galleogas and Fitzjohn both confessed, but nevertheless the Nips lined all twenty of us up in the bay. Thereupon Corporal Shuraki first walked down in the line and hit everyone in the face as hard as he could with a rubber sole of a shoe. Then he took a wooden practice saber and started hitting everyone over the head swinging as hard as he could with both hands. He hit me hard enough that it cut my head and I was bleeding badly. Everything went black and I started to pass out and would have fallen except that one of my buddies held me up. They took me to the next bay where a Sergeant Bailey of the medics dressed the cut on my head. I was not beaten further but I was told that Shiraki then beat the rest of the men across their faces with a heavy leather garrison belt. I did not see this as I was in the next bay but could hear the sounds of this beating. It lasted for thirty minutes. Later on, when we went out to work, Shiraki gave Galleogas and Fitzjohn an extra good working over with a garrison belt." (R 139; Ex 53)

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As to Specification 3 (Shuraki): Robert D. Sollenberg states the following in his affidavit: "During the early part of July 1945, I witnessed the severe beating and torture of First Sergeant John Kristapoliz Jr, Private Edward Raskiewicz, and Private Edward Sheehan, all American soldiers, by Private Kato (phonetic), Corporal Tanabe (phonetic) and Corporal Sheroki (phonetic), all Japanese guards. These American prisoners were accused by the Japanese of having stolen some sake (rice wine) from the Japanese quarters during an air raid about two o'clock in the morning. These men were taken to the guard house and severely beaten - - - - The next morning I witnessed a further beating which lasted for about forty-five minutes before we went to work. The Japanese used leather belts and clubs about 6' long and about 2" in diameter, and beat the men over their heads and about the face and body. These men were beaten and tortured in various way intermittently for about fifteen days. Once they were stood on boxes that were placed between ladders in the barracks and their wrists tied firmly to the ladders, then the boxes were removed and they were left hanging by their wrists . - - -" (R 22, Ex 18; - Also Exhibits 1, 2, 3, 4, 5, 6, 19, 20, 21, 22, 24, 25, 26, 33, & 35).

Charles Roy Brotherson gives a similar version of this beating and torture by stating as follows in his affidavit, "About June 15, 1945, we had an air raid at about 2200. At that time, we were supposed to go to the slit trenches on the beach. However, at this time First Sergeant Kristapoviz, Private Sheehan, and Private Raskiewicz stayed in the barracks and while the raid was in progress they broke into the Japanese kitchen and stole some rice and some sake After the raid was over, about 0200, the Japanese guards called us all out and smelled everyone's breath. They eventually smelled the odor of sake on these three men as they were all three called to the guard house. The next day they commenced torturing them. This consisted of making them kneel down in front of the guard house with a bamboo stick behind their knees and their hands tied behind them. They would be made to keep this position for hours at a time while the Japanese guards would hit them with fists, sticks, and ropes, or belts. They would vary this torture by leaning a ladder against the side of the building, then they would tie these men to a rung of the ladder so that their feet were off the ground and leave them hanging by their wrists for periods up to two hours. During this time, the guards would beat them across their backs with knotted and wet ropes. Sometimes they were beaten until they were unconscious and leave them hanging there. They would also fill a three gallon bucket with water or rocks and make them carry it around on their heads. I saw all of this torture and in the end they were badly beaten again. The men were beaten by the guards there but the man responsible for this beating and torture was a Japanese corporal who was the quartermaster at the camp and who issued us rice, clothing, and supplies. His name is Shiroki (phonetic)." (R 135; Ex 39, also 41, 42, 43, 44, 45, 49, 60, 64, & 65).

Major Donald G. Thompson in his affidavit also states that he personally witnessed the various beatings and tortures administered to these three men by Shuraki (R 144; Ex 169).

Harold V. Densmore testified that he personally witnessed the above-enumerated beatings and tortures administered to Kristapoviz, Raskiewicz, and Sheehan. He further testified that Shuraki went to get the bamboo ladder and Shuraki helped to tie up and suspend Kristapoviz, Raskiewicz, and Sheehan from a rung of the ladder (R 35, 36, 37, & 40).

As to Specification 4 (Shuraki): Harold W. Densmore testified that he witnessed the beating as given to prisoner of war Kimmerle by Shuraki. In testifying about the beatings administered by Shuraki the witness stated as follows:

"Q: Now I will enumerate the prisoners of war you testified were beaten, Lynch, Sheehan, Kristapoviz, and Raskiewicz, and are there any others not enumerated amongst those four?

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"A: He was in on the Kimmerle beating which I testified on in the Shinzo Case.

"Q: Kimmerle?

"A: Yes, sir.

"Q: Tell us about it.

"A: It was in the afternoon when we had come in from work and Kimmerle was standing at attention in front of Japanese Headquarters almost in the same spot where Lynch was standing and as my detail came in, we were 'tenkoed' off, shook down, and dismissed. Kimmerle was standing there in front of Japanese Headquarters. We were dismissed, went on into the bay, and watched them. Shinzo and Shuraki were there and they both beat him.

"Q: With what?

"A: Leather belt, sir.

"Q: The same procedure?

"A: Just about the same procedure as the other beatings, yes, sir.

"Q: For how long a time did they beat Kimmerle that you know of?

"A: All told that beating lasted around twenty or thirty minutes."

(R 117)

The affidavits of Roy Louis Diaz and Donald G. Thompson describes in great detail the incident when Shuraki discovered that the wooden bars of a barracks had been sawed off. He then lined up about twenty prisoners of war billeted in this bay and struck each of them on the head with a wooden sword and his fists (R 139; Ex 53: R 144; Ex 69.).

b. For the defense:

Yuji Hayakawa, a former first lieutenant in the Japanese Army, testified that he was the commandant of Yokkaichi Camp Number 5 during the periods of time as alleged in the specifications. He identified Minoru Kobayashi as acting sergeant major at this camp and also further testified that Kobayashi had requested him to give the prisoners of war more food (R 208). Also Kobayashi obtained medicine for the prisoners of war and in his capacity as sergeant major had allowed the prisoners of war to go swimming and had had an air raid shelter built for them (R 203). Witness also identified Takeo Shuraki as quartermaster of the camp who arrived at this camp on or about 1 June 1945 (R 209). After the first heavy air raid of 26 June 1945 Shuraki left the camp for a three-day pass (R 211). The witness identified Shinshi Kiriu as employed by the Ishihara Company to act as interpreter at the camp. He had heard that Kiriu had given food to prisoners of war and had taken some of them to his own home (R 211). He further testified that Kiriu had cultivated a garden to grow and raise vegetables for the prisoners of war (R 212). Kiriu as interpreter at this camp had no authority over anyone nor did he have any authority to stop beatings of the prisoners by the guards. (R 212) The witness never heard of or saw Kiriu strike a prisoner of war (R 213).

On cross-examination, the witness testified that after him, Kobayashi was next in command, followed by Shuraki (R 217). From 1 June to 15 August 1945, Kobayashi and Shuraki did not report any infractions of camp rules to him as camp commandant (R 208), and that he had never seen any prisoner of war abused or mistreated by the accused (R 228). On re-direct examination, the witness testified that Kristapoviz and Raskiewicz (who stole the sake) were given one month heavy confinement by the Nagoya Camp Commandant and these orders were read to the prisoners of war (R 231).

Five prisoners of war had gone to Kiriu's house (R 231). On 15 August 1945, which was the end of the war, the witness had told Kobayashi to take over the camp (R 232) and on being questioned by the commission, the witness testified that Shuraki had gone to great efforts to get food for the prisoners of war (R 233).

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Tokuya Yoshida testified that he was formerly a corporal in the Japanese Army and was stationed at Yokkaichi Camp Number 5 in charge of the military guard from 17 June to 30 June 1945 (R 236). He further testified that at the time of the big air raid, Kristapoviz and Raskiewicz were brought to the guardhouse for stealing sake and were there beaten. Defendants were not there at the time and he did not see Kristapoviz, Raskiewicz, and Sheehan beaten but did see them strung up on a ladder, and he ordered them taken down (R 239, 240). He heard that the prisoners of war were made to run around the camp with a bucket in their hands but he never heard or saw prisoners of war being forced to kneel on bamboo poles or sharp rocks or to stand with full buckets in their outstretched arms, (R 240, 241). On cross-examination, the witness identified Kobayashi and testified that he was under Kobayashi's orders and that he and the guards under him were subject to orders by Kobayashi (R 242). He testified further that he saw Kristapoviz and Raskiewicz beaten by soldiers when brought to the guardhouse after the big air raid and also that Kobayashi, Shuraki, and Kiryu were not there. Shuraki and Kiryu were both at home (R 244).

Taijiro Kuranishi testified that he was a former first lieutenant in the Japanese Army and that he was adjutant in the Nagoya Main Camp under which Yokkaichi Camp Number 5 operated. It was reported to the main camp that during the air raid some sake had been stolen and either one or two days after the air raid a sentence of thirty days of heavy confinement was given to the POWs who stole the sake by order of Lieutenant Colonel Otoke and this sentence was read to the prisoners of war by the witness (R 258, 258A). The witness also testified that a sentence of heavy confinement does not carry with it any heavy beatings (R 261).

Tokio Nonaka testified that he was employed at the Ishihara Plant at Yokkaichi where the POWs worked and that he lived at the camp (R 262). After the air raid in question, the witness testified that Shuraki had a three day pass and that Kobayashi wasn't in his office (R 263). The witness saw Kristopoviz, Raskiewicz, and Sheehan being walked with buckets in their hands and also saw them carrying rocks but he did not see Shuraki or Kobayashi that day (R 264, 265, 266). He only saw one person suspended from a ladder and Shuraki wasn't around. The air raid took place on the night of the 26th and witness did not see Kobayashi and Shuraki until the 29th (R 267). Shuraki and Kobayashi were generally very busy at the end of the month with the various reports that they had to prepare (R 268). On being cross-examined, the witness testified that he did see Kristapoviz, Raskiewicz, and Sheehan squatting but he did not see bamboo poles between their knees (R 274).

Takeo Shuraki, one of the accused, after being fully warned of his rights was sworn and testified as a witness in his own behalf. He testified that during the basic training in the Japanese Army he was taught discipline by being subjected to frequent beatings by his military superiors. He first reported for duty at Yokkaichi Camp Number 5 on 1 June 1945. He was paymaster at this camp and issued food, clothing, and paid 298 prisoners of war which were American, English, and Dutch as well as twenty Japanese personnel (R 281, 282). He bought all of the food and he sometimes had to travel forty or fifty kilometers away from the camp for the purpose of buying vegetables. He also obtained rice, fish, meat, and other food for the camp. He had the responsibility of seeing to it that this food got into the POW kitchen and the Japanese kitchen. He was NCO of the day at which time he took roll call and checked the work details (R 244, 245).

As to Specification 1 (Lynch): The witness testified that about the middle of July, Lynch was caught at a shakedown with about a pint of rice between his crotch. The "gunzoku" (stick guard) struck him, then Shuraki came up. The witness, Shuraki, scolded Lynch and hit him about three times. "I hit him three times in the cheek with a belt, the side of the belt which had nothing on it." (R 287) Witness further testified that at that time food was very scarce and to steal it was bad as well as a violation of regulations. He had not reported it to his camp commander because if he had Lynch would have received an even heavier punishment (R 287).

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As to Specification 2 (Diaz, Fitzjohn, Gallegos, and others): The witness testified that while he was with Major Thompson, a POW, he discovered the wooden bars in a window of the barracks had been cut. He thereupon lined up all of the POWs in that particular bay and asked them who had cut the bars. No one admitted it. He then hit each of the seventeen POWs on the head with a wooden saber causing one of them to bleed. Two POWs then confessed to cutting the bars. Thereupon, he then hit them in the face with a piece of canvas cloth. No serious injury resulted (R 288). The witness further testified that he hit these seventeen or eighteen POWs because no one came forward to admit the cutting of the bars at the time he inquired. This was a serious infraction of the rules as well as damaging military property and being in illegal possession of a saw, (R 289). Witness did not know the names of the two POWs that confessed and they were taken to the guard house (R 289).

As to Specification 3 (Sheehan, Kristapoviz, and Raskiewicz): The witness testified that on the night of 26 June 1945, the Naval Fuel Dump close to the camp was subject to a big air raid by the Allied Forces, but at this time he was home about 120 kilometers away. He heard about this air raid over the radio and came back to camp about two o'clock of the next day (R 289). When he came back to camp, he brought with him a Japanese sword and at that time heard about the stealing (R 289). He heard that Kirstapoviz and Raskiewicz were accused of stealing sake and that Sheehan had stolen some rice. Kristapoviz and Raskiewicz were punished to thirty days heavy confinement by order of the camp commandant (R 290). While he was sitting in his office, he heard a large outcry and saw a POW being suspended from a ladder (R 290). At that time, he saw Captain Thompson and a guard around the ladder and he did not participate in any way in this suspension. He saw only one POW suspended (R 290, 291). Later on, he saw one or more POWs going around the camp with a bucket, with a military guard behind the POWs (R 291). He heard that military guards had hit the three POWs, Kristapoviz, Raskiewicz, and Sheehan, but he denied touching any of them (R 291).

As to Specification 4: The witness did not remember a POW named Kimmerle and he denied beating or torturing any POW other than the ones he admitted striking and slapping (R 292). At the end of the war, all camp personnel moved to a company house near the camp. Food was moved into the camp and Shuraki accompanied it (R 292). On cross-examination, the witness admitted hitting Lynch, Fitzjohn, Gallagos, and seventeen others on his own accord (R 294). Upon further cross-examination, he stated he had returned to the camp about two o'clock on 27 June 1945 and that he had seen one POW suspended from a ladder by his wrists. There were no rocks underneath his feet and this ladder was one leading to the observation tower (R 291). At the time, he observed the POW suspended from the ladder, Kobayashi was in the office with him. He and Kobayashi went out to stop it (R 299, 300, 301). The buckets that the POWs carried around the camp were made of wood and full of water (R 302). The wooden sword that he used to hit the POWs with in Specification 2 was one which he had borrowed from a civilian guard named Torikoshi (R 306). Upon being questioned by the Commission, the witness stated that he had only once hit Lynch three times with a belt. He did not slap him, hit him with a stick, or with his fist (R 307). When he hit the seventeen POWs with a wooden sword he did not hit them with enough force to harm or hurt them and that he did this because no one of the seventeen came forward to say who cut the bars (R 307). He testified, on being further questioned by the Commission, that he had not hit Kristapoviz, Raskiewicz, or Sheehan with a rope, pole, club, shoe, belt, or did he have anything to do with suspending them from a ladder, nor did he say who had done the suspending. They were not any of the accused (R 308, 309). He did not see and he did not rub any salt in the wounds of any POWs nor did he ever force a POW to carry a pail or to kneel on a sharp rock (R 309).

Hatsuo Ohashi testified that Shuraki was at home the latter part of June 1945 which was the time of the big air raid. The witness saw Shuraki at his father's home at Gifu and greeted him (R 312). The witness further testified that Gifu was about thirty-eight miles from Yokkaichi, that he had

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known Shuraki for about twenty years (R 312-314). Upon being questioned by the Commission, the witness stated Shuraki's father had told the witness that Shuraki had a pass for two or three days (R 315). He further testified that it would take four to five hours for Shuraki to get to camp from his home (R 315).

Witness Taro Matsunami testified that he worked for the Kinka Machine Equipment Company and that Shuraki had worked for this same company from April 1942 for about three years (R 316). In the latter part of June 1945, the witness met Shuraki at Kuwana Station and Shuraki told the witness that he was going back to camp at Yokkaichi. It was about two or three p.m. (R 317).

Witness Hisao Sakashita testified that he works for the Ishihara Company which is the same company that employed the POWs at Yokkaichi. His office was at the camp and Kobayashi and Shuraki were in the same office; Kobayashi being his direct supervisor (R 321, 322). The big air raid of 26 June took place at about 10 p.m., and lasted about thirty minutes. He later saw one POW holding a water bucket and in the afternoon of the next day he saw two POWs kneeling in front of the guard house. He did not see Kobayashi and Shuraki had come back to camp at about three p.m. (R 322-326). The witness further testified that as he came out of his office about nine a.m. he saw a POW suspended from a ladder leading to the observation tower. He came back into the office and told Kobayashi about it. This was on the 28th of June 1945 (R 326). Upon being cross-examined, the witness stated that he had not seen the POW suspended from a ladder before and he did not notice whether the men that he saw kneeling in front of the guard house had poles between their legs. Shuraki came back from pass on the 27th of June about three p.m. (R 328-329).

Witness Rikizo Sakai testified that from 4 September 1944 to 4 September 1945 he was a "gunzoku" at Yokkaichi Camp Number 5 and that he was assistant to Shuraki (R 332). Shuraki at times went far away from the camp to get food (R 332). The witness further testified that the air raid took place on the 25th or 26th at about 11 p.m. and the bombing lasted for about one hour. The all-clear sounded at about two hours later (R 333). Shuraki was on pass and not in the camp at the time. On the 27th of June, the witness testified that he went to Nagoya with Kobayashi and came back at about ten p.m. (R 334). He saw a POW suspended from a ladder about 11 a.m. and Shuraki was in the office at the time. One guard and POW Thompson were near the suspended POW. The POW was tied up by his wrists (R 334, 335). He did not see or hear of any POW having been beaten with ropes, clubs, fists, belts, holding water buckets, or kneeling on rocks (R 336). He testified that Kobayashi let the POWs go swimming and that Kiryu treated the POWs kindly (R 337). Upon being cross-examined, the witness stated that he and Kobayashi went to Nagoya on the morning of the 27th at about 8 a.m. (R 339). At the time of the suspension, Kobayashi and Shuraki were in the office (R 339).

Minoru Kobayashi, after being fully warned of his rights, was sworn and took the stand as a witness in his own behalf. He testified that he was a corporal at Yokkaichi POW Camp and was acting sergeant major from 18 April 1945 to the end of the war (R 343). He was in charge of general affairs under the camp commandant which entailed a variety of duties. He lived at the camp (R 343, 344). From the 20th to the end of each month he was kept very busy drawing up and submitting the various reports (R 345). He testified that he knew POW Captain Thompson and that said Captain Thompson complained to the witness that guards, "gunzokus", and company employees beat POWs at places where no one could see them (R 345). POW Thompson asked the witness if he could get rid of those doing the beating and Kobayashi took it up with the camp commandant. As a result, Kondo, one of the main offenders, was fired at the request of the witness (R 346).

Shinjo ("All Man"), Nakagawa ("Three Finger Jack"), and Ito ("Skull") were warned by Kobayashi, but because of lack of personnel, they could not be fired, (R 346). The witness further testified that he got permission for the POWs to go swimming, to play cards, and to have musical instruments, knives,

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forks, and spoons (R 347). The witness hit "Gunzoku" Shinjo for striking a POW at the factory (R 347-348). At the end of the war, POW Captain Thompson told the witness to keep, Shinjo, Nakagawa, Ito, and a guard named Kobayashi out of the camp as the POWs would take revenge on them (R 348). The witness further testified that at the end of the war, he came to the camp every day and the POWs were friendly with him (R 348).

On or about 10 June 1945, POWs Captain Thompson and Lt Verwayen complained to the witness that a sentry in the barracks was annoying the POWs, whereupon Kobayashi ordered this sentry outside the barracks. Yoshida, the guard commander, thereupon "bawled out" the witness for doing this (R 350, 351). The witness further testified that there was a large air raid the latter part of June at about 11 p.m. and he then went back to bed about three or three-thirty a.m. on the morning of the 27th (R 351). Shinjo and Nakagawa complained that sake had been stolen during this air raid (R 353). The witness then asked POW Captain Thompson to determine who stole the sake Later POW Thompson and POW Verwayen came back with two POWs. The soldiers stated they stole the sake and were put in the guard house. At that time, Yoshida, the guard commander, stated someone had stolen his balls of rice. At that time, there were many guards around the guardhouse (R 354). A sergeant major Sugimoto of the Military Police requested that the POWs who stole the sake be turned over to him, but the camp commandant did not do so (R 355). About 5:30 to 6 a.m., Kobayashi and Sakai went to the main camp to report the results of the air raid and at that time, the witness reported the rice and sake stealing incidents to the main camp commandant, who was Lt. Col. Otake. This lieutenant colonel then stated that the POWs would not be beheaded (R 355-357). The witness then came to Yokkaichi at about six p.m. at which time he heard that Yoshida had mistreated the prisoners of war Kristapoviz, Raskiewicz, and Sheehan (R 357, 358). On the morning of the 28th, a POW was suspended from a ladder. Yoshida and POW Captain Thompson were there. Sheehan was the POW and he had already been lowered (R 359). The witness then asked Yoshida why he had done such a thing and Yoshida answered that Sheehan did not say who stole the rice balls (R 359). The witness then testified that he had heard about the other two POWs who had been suspended from a ladder. He later saw Sheehan in front of the guard house holding a bucket with Yoshida present (R 362). The witness testified that he never struck or slapped Kristapoviz, Raskiewicz, and Sheehan, nor had he beat them with ropes, poles, clubs, shoes, nor had he rubbed salt in their wounds (R 363).

In the middle of June, POW Captain Thompson came to the witness with Sheehan and POW Thompson said Sheehan was always stealing things and to quarter him elsewhere. Sheehan was put in the guard house for nights only (R 364). The witness testified that he once struck Sheehan with the flat side of his covered sword to try to straighten him out and also to frighten Sheehan, he made a pass as if to poke him with a bayonet but did not touch him (R 364, 365). The witness also testified that he hit Lynch (Specification 1) three or four times on the shoulders and cheek with a long, hard piece of cloth that Lynch was trying to smuggle into camp. From a distance, this would resemble a belt (R 366). The witness testified that Kobayashi was a civilian guard in the camp and that there were two guards besides the accused named Kobayashi who were at the camp and they were not related to the accused. They lived in the company dormitory. At the end of the war, Kobayashi stayed in the camp and worked there (R 383-386). He further testified on cross-examination that Shuraki was at home on pass the night of the big air raid (the 26th) (R 394).

Witness Kiyokata Hosoya testified that he worked for the Ishihara Company where the POWs worked from 4 September 1944 to September 1945 (R 406). He had his office at the camp and he knows Kiryu. Kiryu was employed by the company as interpreter and the witness was Kiryu's company supervisor (R 406-407). He further testified that Kiryu was not armed and that he (Kiryu) treated the POWs kindly. He never slapped, beat, or tortured in any manner any POW and he gave the POWs food and got them vegetables and also a garden to grow vegetables for them (R 407, 408). Upon being questioned by the Commission, the witness testified that he never did see any of the accused hit or mistreat any of the prisoners of war (R 416).

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Kobayashi, upon being recalled to the stand, further testified that on the morning of the 28th when he observed the POW suspended from the ladder, POW Sheehan had already been lowered when he arrived at the spot (R 421-426). The witness further denied on cross-examination ever having anything to do with a prisoner of war being suspended (R 422). He admitted that he hit Sheehan when Sheehan wouldn't correct himself and at the time he hit Lynch no marks or bruises were left on him (R 422, 427). The witness further denied upon being questioned by the Commission that he took part in the beating as testified to by Densmore (R 432).

Major Donald Thompson stated further in his affidavit, "I have witnessed the torture of Sergeant John Kristapoviz Jr, Pfc Edward Raskiewicz, and Edward Sheehan after a heavy air raid the latter part of June 1945. I have talked to Sergeant John Kristapoviz about these tortures and he never told me that acting sergeant-major Kobayashi took his sword which was still in the scabbard and struck him over the head or shoulders or that Kobayashi, when he was lying on the ground, backed up about thirty feet, and with a good running start, jumped way up in the air and landed on him with his hob-nailed shoes. I did not witness this nor did I hear of it. During the thirty to thirty-five days period of the torture of Kristapoviz, Raskiewicz, and Sheehan, I did not witness acting sergeant-major Kobayashi mistreat them by beating them with ropes, poles, clubs, shoes, and belts or by suspending them by their wrists from ladders, or by rubbing salt in their wounds, and forcing them to hold heavy pails in their outstretched arms for long periods of time. I did see Kobayashi beat Sheehan with a scabbard to get him to confess that he stole the rice balls. Other than this I did not see him administer any other beating or torture to these American prisoners of war. Other than stated here, I know of no other beatings, slappings, or tortures of POWs by acting sergeant-major Kobayashi while I was at this POW Camp. He was a decent Japanese and didn't try to see whether POWs were strictly obeying regulations. I rather liked him personally and visited with him at Sugamo Prison." (R 434; Ex C).

Witness Tadao Tanabe, who is presently in Sugamo Prison, after being warned of his rights testified that he was medical corporal at Yokkaichi from 24 November 1944 to 27 May 1945 (R 434). He further testified that he knew Kiryu and that his job was interpreter at this camp. Kiryu helped him to get straw and a stove for the hospital. He further testified that he knew the POW who had a broken finger which was broken while he was going to the air raid shelter (R 435).

Witness Shuntaro Habe, who is presently in Sugamo Prison, after being warned of his rights, testified that he was a first lieutenant in the Japanese Army and was branch commandant of Yokkaichi Camp from 18 December 1944 to 7 March 1945. He knew Kiryu as interpreter at this camp and he never knew him to ever mistreat a prisoner (R 439-440).

Witness Shoichi Araki, who is presently in Sugamo Prison, after being warned of his rights testified that he was a second lieutenant and branch commandant of Yokkaichi POW Camp from 7 March 1945 to 27 May 1945. He further testified that Kiryu was really the interpreter at this camp and that he never saw Kiryu ever beat or mistreat a prisoner of war and that Kiryu was not armed (R 447).

Witness Kinori Hida testified that he was treasurer of the general affairs of the Yokkaichi Factory of Ishihara Company and that he was at Yokkaichi from 4 September 1944 to 4 September 1945 (R 446). He further testified that Kiryu looked after the interests of the POWs and that Kiryu never beat or mistreated a prisoner of war and that the co-workers all liked Kiryu (R 447).

Witness Yuraku Nishijima testified that he worked at the Yokkaichi Company from October 1939 to October 1945 (R 452). He testified that Kiryu was solicitious of the POWs and got them extra food, and, because sometimes the POWs worked extra hard they were given two extra rice balls at Kiryu's insistence (R 452).

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Restricted

Leslie John Shellstede states in his affidavit that he was a former POW at Yokkaichi Camp and while confined there, Kiryu gave him additional food and "this additional ration from Kiryu helped me to survive during my confinement." (R 455, Ex E).

Robert L. Rodgers, a former POW at Yokkaichi Camp, stated in his affidavit that Kiryu gave him extra food while in confinement and that Kiryu saved his life when a drunk Japanese sergeant was threatening to kill him with his sword (R 455; Ex F).

Colonel Guy H. Stubbs states in his affidavit that Shinshi Kiryu, an interpreter at the camp, was called Kiru, Kito, Kiryu, Kilu, and Kewlu.

Photostatic copy of medical record from Halloran General Hospital of Eugene Kowalski shows that on 8 October 1945, said Kowalski was admitted to this hospital with "mal union of fracture distal right 5th metacarpus secondary to fracture, simple, of distal right fifth metacarpus incurred when struck over hand by Japanese saber while prisoner of war in Japan August 1943. Recovered." (R 457, Ex H).

Major Donald G. Thompson states in his affidavit that he "neither saw nor heard the interpreter Kiryu while a prisoner of war at this camp beat, slap, or torture in any manner prisoners of war." (R 457, Ex I).

Shinshi Kiryu, after being fully warned of his rights, was sworn and testified as a witness in his own behalf. He testified that from 16 October 1944 to 30 November 1945, he worked as a clerk and interpreter for Ishihara Sangyo Koshi Factory at Yokkaichi and that he lived in the company barracks (R 461). He further testified that he never ordered any punishment for any prisoners of war nor did he have authority to do so (R 462). He knew Sheehan as a troublemaker in this camp (R 463). Sheehan was always stealing from Japanese as well as fellow prisoners of war and prisoner of war officer Thompson requested that he (Sheehan) be put in a separate place and in May 1945, Sheehan was put in the guardhouse (R 463). He further testified that on the night of the big air raid he was at home (R 464). He came to the camp at which time he heard about POW's stealing sake. He was ordered to have the POWs line up (R 468), at which time their breaths were smelled. Major Thompson and Lt Verwayen helped smell the breaths of POW's and no one was caught (R 469). He further testified that he saw Fitzjohn and Gallagos forced to kneel in front of the guardhouse at about 7:30 a.m. 20 June 1945 (R 471). He heard that Kristapoviz, Raskiewicz, and Sheehan had been suspended from a ladder by military guards and also heard that Shechan was forced to run around the camp with a bucket over his head and also that Kristapoviz, Raskiewicz, and Sheehan were beaten by guards with leather belts, and with ropes (R 471-473). He also testified that he got the five POWs, Kristapoviz, Raskiewicz, Sheehan, Fitzjohn, and Gallagos to come to his house to build an air raid shelter. It took about three days. He did this just to get them out of the guardhouse.

On 2 July 1945, the adjutant of the main camp sentenced Kristapoviz, Raskiewicz, and Sheehan for thirty days for stealing sake and sentenced Fitzjohn and Gallagos to seven days for cutting bars in the barracks (R 474). He denied beating Bond and Rapp but did admit slapping Sheehan two times with his open hand for stealing knives. This was the only time he ever struck a POW (R 475). He also testified that he was present as an interpreter when various POW's were beaten and he thus surmised that the POWs may think he was responsible. He tried to treat the POW's with kindness (R 477).

Witness Toku Kawata testified that he worked at Yokkaichi refinery of Ishihara Camp as chief of finance section and chief of labor section from August 1944 to 30 September 1945. He identified Kiryu as working at this same place and that Kiryu suggested to him various ways in which to better the working conditions of the POW's.

Defense Exhibit K, which is a list of employees of Ishihara Company concerned with Number 5 Branch Camp, shows that a Heishiro Kobayashi worked at this camp as a company guard from August 1944 to August 1945 (R 524; Ex K).

Defense Exhibit L-1 and L-2 shows that a Morizo Shinjo was tried on charge and eight specifications for mistreating various POW's and on 22 January 1947 was sentenced to confinement at hard labor for twenty-eight years (R 525; Defense Ex L-1, L-2). Upon further examination of witness Densmore, he testified that Sheehan and Lynch never said anything bad about Kiryu (R 532). He further testified that besides the accused there were two other persons in this camp by the name of Kobayashi (R 535). Upon being questioned by the Commission, the witness further testified that Kobayashi treated the POWs better than any other Japanese in the camp (R 547) and that "Kobayashi did not take a sadistic part in the beatings, it wasn't in a sadistic way." (R 544).

4. Opinion.

During the past conflict, the Japanese operated a POW Camp at Yokkaichi, near Nagoya which was known as Yokkaichi Camp Number 5. Various American, English, and Dutch Prisoners of War were confined at this camp. The Ishihara Industrial Company operated a factory nearby and the POWs worked at this factory for which they were paid.

The administration of the camp was in the hands of a Japanese first lieutenant who was the Camp Commandant, Corporal Minoru Kobayashi, acting sergeant major, Corporal Takeo Shuraki, Quartermaster, military guards, which changed every two weeks and civilian "stick guards" called "gunzokus". Masauki Kiryu was a civilian employed by the Ishihara Company as an interpreter and to act as liaison man between the factory, the camp, and the POWs.

On the night of 26 June 1945, about 11 p.m. the American Air Force heavily bombed a navy fuel supply dump about five miles from the POW Camp. At the time of the air raid signal, the POW's and Japanese personnel took cover in various air raid shelters around the camp. The shelter utilized by the POWs was more or less a slit trench built on the beach. At the time of the air raid signal, the lights were extinguished and in the resulting confusion, American POW's Kristapoviz and Raskiewicz stole a bottle of sake from the military guards. At the all-clear signal, the POW's were marched back to their barracks at which time, the guards discovered that their sake was missing. The POWs were thereupon called out, lined up, and the breath of each was smelled to determine an odor of alcohol. The result was negative. Whereupon, Captain Donald G. Thompson and Dutch Lt Verwayen were then asked to conduct their own investigation to ascertain who stole the sake. It was then discovered that Kristapoviz and Raskiewicz had committed the theft and they were turned over to the military guards, who, after giving them a beating, put them in the guardhouse. At the time of this same air raid, Sheehan, who was already an occupant of the guardhouse, put there at the request of Captain Thompson because of his many thefts, and from fellow POW's, stole some balls of rice from a guard in the guardhouse. This theft was discovered at the same time the sake was found missing. The matter of the thefts was reported to the main camp commander at Nagoya by Kobayashi and a sentence of thirty days heavy confinement was given to Kristapoviz and Raskiewicz.

On the morning of 27 June 1945, various affidavits submitted by the prosecution contended that Kristapoviz, Raskiewicz, and Sheehan were suspended by their wrists from a bamboo ladder and while thus suspended, they were subjected to a severe beating. As far as to particular act of torture is concerned, it was brought out by the defense that Kobayashi was on his way to the Nagoya Main Camp to report the results of the previous night's air raid. Shuraki was on a three-day pass and Kiryu was at his home. The evidence however indicates that there were other times when Kristapoviz, Raskiewicz, and Sheehan were suspended in which Shuraki and Kobayashi participated. They were also present if not participants in other acts of cruelty involving these prisoners being forced to kneel on sharp objects with bamboo poles inserted between their legs.

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Kiryu who received a sentence of two years of confinement at hard labor was released from confinement on or about 28 April 1948 on contingent parole pending final action in this case. This action to affect his release took place because he would have served his sentence before action by the reviewing authority was completed.

As to Kobayashi, the evidence indicates that he was not a vicious type of individual and the one or two instances in which he struck a POW was necessitated by his desire to maintain discipline and correction. Testimony of Densmore, a former POW at this camp, was to the affect that Kobayashi was well liked by all of the POWs and this fact is further borne out by defense exhibit A which is a letter signed by Major Donald G. Thompson and Lt Verwayen thanking Kobayashi for the fine cooperation displayed at this POW Camp.

The Commission closed the court on 13 March 1947 to deliberate on the findings and sentence and to meet again on 18 March 1947. Prosecution on 14 March 1947 called the Commission to convene for the purpose of introducing into evidence Exhibit 73 which is a telegram sent to the War Crimes Defense Section from the Commanding General, Fourth Army to CINCFE (for Commanding General, Eighth Army). This telegram is an extract from a proported affidavit made by Cecil A. Crouch, a former POW, at Yokkaichi POW Camp.

Defense strenuously objected to the introduction of this telegram on the ground that the court had already adjourned to deliberate on the findings and sentence but motion was properly overruled. It must be borne in mind, however, that this telegram is merely an abstract from an affidavit made by Crouch but said affidavit has never been received either by the prosecution or the defense. It is considered that the sentence of confinement at hard labor for fifteen years to Kobayashi is excessive.

Shuraki, the acting sergeant major who assumed command of this camp in the frequent absences of the camp commandant, is a young man presently twenty-four years of age who was completely indoctrinated into the Japanese system of corporal punishment for breaches of discipline committed by men under his charge. The evidence is overwhelming that he participated in and was present at the various times POWs were maltreated, struck, beaten, and abused. It is considered, however, that no permanent injuries resulted from these various beatings and acts of abuse. Shuraki who testified as a sworn witness in his own behalf admitted striking the prisoners as enumerated in the specifications but contended that it was in the line of duty to maintain discipline and order. It is considered that the sentence of twenty-five years confinement at hard labor assessed against him is excessive.

The Commission was constituted by proper authority and had jurisdiction over the accused and over the offenses charged. There is no evidence that the three accused were not sane at the time of trial or at the time the alleged acts were committed. They were given a fair trial and they were ably defended by competent defense counsel. They each testified under oath in their own behalf and they were fully aware at all times of the proceedings being held against them. They produced witnesses in their behalf and also various exhibits.

Defense has filed motion for modification of findings and sentence as to Tokeo Shuraki and Minoru Kobayashi. These motions by the defense have been carefully studied in the light of the whole record of trial.

5. Recommendations.

No request for clemency has been submitted in this case by the Military Commission but petitions in mitigation and clemency have been filed in behalf of Kiryu, Shuraki, and Kobayashi. They also have been carefully studied from the view point of arriving at substantial justice. The sentence as imposed is legal but it is considered excessive and it is recommended that the sentence as to

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Shuraki of twenty-five years confinement at hard labor be reduced to fifteen years and that the sentence as to Kobayashi of confinement at hard labor for fifteen years be reduced to eight years.

6. Action.

Forms of action to carry these recommendations into effect are attached.

J. J. GENTILELLA
Reviewer
Judge Advocate Section

I concur in general. The sentence as to Kiryu for conviction of many instances of beatings and slappings is considered to be very lenient when measured by sentences of other commissions involving similar offenses. However, it would not be in accord with principles employed in war crimes trials to adjust the sentence upward. Shuraki's sentence of twenty-five (25) years for conviction of beatings involving eight named persons and mistreatments of several others should be reduced to confinement at hard labor for sixteen (16) years; Kobayashi's sentence of fifteen (15) years for conviction of beatings of four named prisoners should be mitigated by remission of all in excess of eight (8) years' confinement at hard labor as recommended by the reviewer. It is thus noted that the accused with the over-lenient sentence cannot receive adequate punishment while on the other hand the persons with excessive sentences are protected by adjustment on review. This seeming injustice against the forces of law and decency is justified historically by the traditional rule of civilized courts that no reviewing authority in a criminal case should adjudge a sentence on its own account which would worsen the condition in which an accused finds himself after trial. This is especially logical in military cases where the accused does not initiate the review but is accorded it as an automatic procedure.

The following statement in a petition from Shuraki's father is gratifying to those charged with conducting war crimes trials:

> "I attended the public trial of Takeo in Yokohama for about a month. I am heartily grateful for the fine and kind attitude of the American judges and advocates."

ALLAN R BROWNE
Lt Col JAGD
Army Judge Advocate

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